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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 130627573-3573-01]

RIN 0648-BD39

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic;
Reef Fish Fishery of the Gulf of Mexico; Red Snapper Management
Measures

AGENCY: National Marine Fisheries Service (NMFS), National
Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to implement management measures described in a framework action to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP), as prepared by the Gulf of Mexico Fishery Management Council (Council). If implemented, this rule would increase the 2013 commercial and recreational quotas for red snapper in the Gulf of Mexico (Gulf) reef fish fishery and re-open the red snapper recreational season for 2013. This proposed rule is intended to help achieve optimum yield (OY) for the Gulf red snapper resource without increasing the risk of red snapper experiencing overfishing.

DATES: Written comments must be received on or before [insert date 15 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: You may submit comments on the proposed rule, identified by "NOAA-NMFS-2013-0115" by any of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2013-0115, click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.
- **Mail:** Submit written comments to Susan Gerhart, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

Electronic copies of the framework action, which includes an environmental assessment, a regulatory impact review, and a Regulatory Flexibility Act analysis may be obtained from the Southeast Regional Office Web Site at http://sero.nmfs.noaa.gov/sustainable_fisheries/gulf_fisheries/reef_fish/index.html.

FOR FURTHER INFORMATION CONTACT: Susan Gerhart, Southeast Regional Office, NMFS, telephone 727-824-5305; email: Susan.Gerhart@noaa.gov.

SUPPLEMENTARY INFORMATION: NMFS and the Council manage the Gulf reef fish fishery under the FMP. The Council prepared the FMP and NMFS implements the FMP through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

Background

The Southeast Data, Assessment, and Review (SEDAR) benchmark assessment for Gulf red snapper (SEDAR 31), conducted in 2013, determined that the acceptable biological catch (ABC) for red snapper could be increased. The stock is no longer undergoing overfishing. However, it remains overfished and is under a rebuilding plan through 2032.

The Council's Scientific and Statistical Committee (SSC) met in May 2013 to review SEDAR 31, and recommended an ABC of 13.5 million lb (6.1 million kg), round weight, for the 2013 fishing year, 11.9 million lb (5.4 million kg), round weight, for the 2014 fishing year, and 10.6 million lb (4.8 million kg), round weight, for the 2015 fishing year. The Council met in July 2013 and voted to implement an allowable catch of 11.0 million lb (5.0 million kg), round weight. This is an increase of 2.54 million lb (1.15 million kg), round weight, from the allowable catch currently in effect. The Council determined that implementing an allowable catch of 11.0 million lb (5.0 million kg), round weight, would allow the quotas in the following years to remain constant or increase. Although the proposed quota would exceed the current ABC in 2015 if continued beyond 2014, the SSC will review the new projections in August 2013 and is expected to provide new ABCs based on a constant catch scenario. Any new ABCs recommended by the SSC would be announced in the final rule for this action. The Council will review the SSC's new ABC recommendations at its August 2013 meeting and determine whether further revision of the allowable catch is necessary. If revisions to the allowable catch are necessary, NMFS would publish subsequent proposed and final rulemaking. An update assessment is scheduled for red snapper

in 2015 and could also result in a change in the ABC and allowable catch at that time.

The increase to the current 2013 commercial quota of 1.295 million lb (587,402 kg), round weight, would be distributed to shareholders in the individual fishing quota (IFQ) program for Gulf red snapper on or shortly after the effective date of the final rule. The increase to the current 2013 recreational quota of 1.245 million lb (564,723 kg), round weight, could allow a supplemental red snapper recreational fishing season, if additional quota is available after the June landings are known. The supplemental season would open October 1, 2013; the end date would be published in the final rule. The Council also considered modifying the reopening of the red snapper recreational fishing season to be on weekends only, but the Council preferred to retain a continuous open season.

Management Measures Contained in this Proposed Rule

This rule would set the commercial and recreational quotas for red snapper based on the allowable catch of 11.0 million lb (5.0 million kg), round weight, and the current commercial and recreational allocations (51 percent commercial and 49 percent recreational). Therefore, the commercial quota would be set at 5.610 million lb (2.545 million kg), round weight, and the recreational quota would be set at 5.390 million lb (2.445

million kg), round weight.

Red Snapper Recreational Fishing Season

Under 50 CFR 622.34 (m), the red snapper recreational fishing season opens each year on June 1 and closes when the recreational quota is projected to be reached. Prior to June 1 each year, NMFS projects the closing date based on the previous year's data, and notifies the public of the closing date for the upcoming season. If subsequent data indicate that the quota has not been reached by that closing date, NMFS may reopen the season.

If this rule is implemented and the recreational quota for red snapper were to increase, NMFS may be able to reopen the recreational season for red snapper during 2013, if additional quota is available after the June landings are known. This would allow fishermen the opportunity to harvest the additional quota, without jeopardizing the stock of undergoing overfishing or impeding rebuilding of the stock by 2032. The final rule for this action would contain the recreational fishing season closure date.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the FMP, other provisions of

the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

NMFS prepared an Initial Regulatory Flexibility Analysis (IRFA), as required by section 603 of the Regulatory Flexibility Act, for this proposed rule. The IRFA describes the economic impact this rule, if adopted, would have on small entities. A description of the action, why it is being considered, the objectives of, and legal basis for this action are contained at the beginning of this section in the preamble and in the SUMMARY section of the preamble. A copy of the full analysis is available from NMFS (see ADDRESSES). A summary of the IRFA follows.

No duplicative, overlapping, or conflicting Federal rules have been identified. This proposed rule would not introduce any changes to current reporting, record-keeping, or other compliance requirements.

This rule, if implemented, would be expected to directly affect commercial and for-hire vessels that harvest red snapper. In addition to needing red snapper IFQ allocation, a commercial reef fish permit is required to sell red snapper and to harvest red snapper in excess of the bag limit in the Gulf EEZ. An

estimated 888 vessels possess a valid (non-expired) or renewable commercial reef fish permit. A renewable permit is an expired permit that may not be actively fished, but is renewable for up to 1 year after permit expiration. However, over the period 2007-2011, an average of only 333 vessels per year recorded commercial red snapper harvests. As a result, for the purpose of this assessment, the number of potentially affected commercial vessels is estimated to range from 333-888. The average commercial vessel in the Gulf reef fish fishery is estimated to earn approximately \$50,000 (2011 dollars) in gross annual revenue, while the average vessel with red snapper landings is estimated to earn approximately \$96,000 in gross annual revenue.

A Federal reef fish for-hire vessel permit is required for for-hire vessels to harvest red snapper in the Gulf EEZ. On June 24, 2013, 1,353 vessels had a valid or renewable reef fish for-hire permit. The for-hire fleet is comprised of charterboats, which charge a fee on a per-vessel basis, and headboats, which charge a fee on an individual angler (head) basis. Although the for-hire permit application collects information on the primary method of operation, the resultant permit itself does not identify the permitted vessel as either a headboat or a charter vessel, operation as either a headboat or

charter vessel is not restricted by the permitting regulations, and vessels may operate in both capacities. However, only federally permitted headboats are required to submit harvest and effort information to the NMFS Southeast Region Headboat Survey (SRHS). Participation in the SRHS is based on determination by the Southeast Fisheries Science Center that the vessel primarily operates as a headboat. Seventy vessels were registered in the SHRS as of March 1, 2013. As a result, 1,283 of the vessels with a valid or renewable reef fish for-hire permit are expected to operate as charterboats. The average charterboat is estimated to earn approximately \$80,000 (2011 dollars) in gross annual revenue and the average headboat is estimated to earn approximately \$242,000 in gross annual revenue.

NMFS has not identified any other small entities that would be expected to be directly affected by this proposed rule. The Small Business Administration (SBA) has established size criteria for all major industry sectors in the U.S., including fish harvesters. A business involved in fish harvesting is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of \$19.0 million (NAICS code 114111, finfish fishing) for all its affiliated operations worldwide. This receipts threshold is

the result of a final rule issued by the SBA on June 20, 2013, which that increased the size standard for Finfish Fishing from \$4.0 to \$19.0 million. The receipts threshold for a business involved in the for-hire fishing industry is \$7.0 million (NAICS code 487210, fishing boat charter operation). This receipts threshold has not been changed as a result of recent review by the SBA. All commercial and for-hire vessels expected to be directly affected by this proposed rule are believed to be small business entities.

This rule, if implemented, would increase the red snapper commercial quota by 1.295 million lb (587,402 kg), round weight, and the red snapper recreational quota by 1.245 million lb (564,723 kg), round weight. The proposed increase in the commercial quota would be expected to result in an increase in gross revenue (ex-vessel revenue minus the 3-percent cost recovery fee) for commercial vessels that harvest red snapper of approximately \$4.81 million (2011 dollars), or approximately \$5,417-\$14,444 per vessel ($\$4.81 \text{ million} / 888 \text{ vessels} = \$5,417 \text{ per vessel}$; $\$4.81 / 333 \text{ vessels} = \$14,444 \text{ per vessel}$). The expected range in the increase in gross revenue per vessel would be equal to approximately 10.8 percent ($\$5,417 / \$50,000$) and 15.1 percent ($\$14,444 / \$96,000$) increases in the average annual revenue per vessel, respectively.

The proposed increase in the recreational quota would be expected to result in an increase in net operating revenue (gross revenue minus operating costs except for labor) for for-hire businesses of approximately \$3.361 million (2011 dollars) for charterboats and approximately \$3.765 million for headboats. The projected increase in net operating revenue for charterboats would be equal to approximately \$2,600 per vessel ($\$3.361 \text{ million} / 1,283 \text{ vessels}$), or approximately 3.3 percent ($\$2,600 / \$80,000$) of average annual revenue per vessel. For headboats, the projected increase in net operating revenue would be equal to approximately \$53,800 per vessel ($\$3.765 \text{ million} / 70 \text{ vessels}$), or approximately 22.2 percent ($\$53,800 / \$242,000$) of average annual revenue per vessel.

In summary, this rule, if implemented, would be expected to increase the revenue and profit of the average small entity that would be expected to be directly affected. Because the expected economic effect of this proposed rule would be positive and not adverse, the issue of significant alternatives to minimize the adverse effects is not relevant.

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Gulf, Quotas, Red Snapper.

Dated: August 8, 2013

Alan D. Risenhoover,
Director, Office of Sustainable Fisheries,
performing the functions and duties of the
Deputy Assistant Administrator for Regulatory Programs,
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is
proposed to be amended as follows:

PART 622--FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH
ATLANTIC

1. The authority citation for part 622 continues to read
as follows:

Authority: 16 U.S.C. 1801 et seq.

2. In § 622.39, paragraphs (a)(1)(i) and (a)(2)(i) are
revised to read as follows:

§ 622.39 Quotas.

* * * * *

(a) * * *

(1) * * *

(i) Commercial quota for red snapper--5.610 million lb
(1.957 million kg), round weight.

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(2) * * *

(i) Recreational quota for red snapper-- 5.390 million lb
(1.880 million kg), round weight.

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